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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/669,894-Conf. #2236	
	Filing Date	September 23, 2003	
	First Named Inventor	Robert M. Soule, III	
	Art Unit	2876	
	Examiner Name	U. C. N. Le	
Total Number of Pages in This Submission	6	Attorney Docket Number	283_392.12

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Communication to Record Substance of Interview (5 pages), Return Mailroom Postcard, Certificate of Express Mailing
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MARJAMA MULLOON BLASIAK & SULLIVAN LLP		
Signature			
Printed name	Dmitry Andreev		
Date	November 7, 2007	Reg. No.	57,428

Transmittal I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, No. EM112873595US, on the date shown below in an envelope addressed to: MS Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. Dated: November 7, 2007 Signature: (Susan Pagano)	
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Dated: November 7, 2007

Signature:

(Susan Pagano)

Docket No.: 283_392.12
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Robert M. Soule, III

Application No.: 10/669,894

Confirmation No.: 2236

Filed: September 23, 2003

Art Unit: 2876

For: REPROGRAMMING SYSTEM INCLUDING
REPROGRAMMING SYMBOL

Examiner: U. C. N. Le

COMMUNICATION TO RECORD SUBSTANCE OF INTERVIEW

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A telephone interview was held in three phone conferences on October 16, 2007, October 25, 2007, and October 26, 2007 between Examiner Uyen Chau N Le and Applicant's representative Dmitry Andreev.

Applicant's representative began the interview by reading the following statement: "The interview will be focused on a limited number of issues for purposes of reducing the time of the interview, and for purposes of expediting an allowance. The focused nature of the interview will not be taken as an indication that arguments for unpatentability by the Examiner not discussed are conceded to be correct and appropriately made. Applicant expressly reserves the rights, later in prosecution of the present application or another application, to challenge the propriety of the outstanding office action on grounds not discussed in the interview."

Applicant's representative stated that the interview will be focused on Claims 13, 47, 52, 77, and 86.

Applicant's representative further stated that in the Office Action of June 22, 2007, Claim 13 has been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,869,819 A to Knowles et al. ('Knowles'). Claim 13 has also been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,176,427 B1 to Antognini et al. ('Antognini'). Claims 47 and 52 have been rejected under 35 U.S.C. § 103 as being unpatentable over Antognini in view of U.S. Patent No. 6,902,114 B2 to Hashimoto et al. ('Hashimoto'). Claim 77 has been rejected under 35 U.S.C. § 103 as being unpatentable over Antognini in view of U.S. Patent No. 5,837,986 A to Barile et al. ('Barile'). Claim 86 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Antognini.

Applicant's representative read the anticipation requirements of MPEP §2131 requiring the reference to teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Applicant's representative further stated that in accordance with a recent Supreme Court opinion in *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1733 (Sup. Ct. 2007), to determine obviousness under 35 U.S.C. §103(a), "the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved," and hence one or more references must teach and every element of the claim.

Regarding Claim 13, Applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of "an encoder encoding into at least one symbol a formatted file." The Examiner stated that Knowles in Figs. 6b, 7a discloses encoding a URL. Applicant's representative stated that a URL means a "Universal Resource Locator," which can be a file designator, but not a file itself. The Examiner proposed to discuss the 102(b) rejection of Claim 13 over Antognini.

With respect to the 102(b) rejection of Claim 13 over Antognini, Applicant's representative asked the Examiner to identify where in Antognini there is a teaching of

"an encoder encoding into at least one symbol a formatted file . . . , and a command in accordance with said input command data." The Examiner agreed that Antognini does not teach an encoder encoding a command into at least one symbol, and further agreed to withdraw the 102(b) rejection if Claim 13 would be amended to recite "...an encoder encoding into at least one symbol a formatted file in accordance with said designator, and encoding into said at least one symbol a command in accordance with said input command data."

Regarding Claim 47, Applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of a "data input area receiving information pertaining to a number of bar codes to encode." The Examiner referenced Hashimoto, Figs. 5 and 6. Applicant's representative opined that the relied upon section of Hashimoto teaches automatically calculating the number of symbols to be encoded, and does not teach a data input area receiving information pertaining to a number of bar codes to encode. The Examiner agreed to withdraw the 103(a) rejection if Claim 47 would be amended to recite a "data input area receiving from a user information pertaining to a number of bar codes to encode."

Regarding Claim 52, Applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of a "data input area for designating a destination directory, the destination directory designating a storage location for data produced by decoding of symbol encoded by said symbol generator." The Examiner referred to Antognini, Fig. 2 step 202 and Fig. 20 step 2002. Applicant's representative noted that the cited steps refer to selecting the source file and are absolutely silent to specifying a destination directory. The Examiner agreed to withdraw the 103(a) rejection if Claim 52 would be amended to recite "an encoder encoding said input information including said destination directory into a set of bar codes in accordance with said input information."

Regarding Claim 77, Applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of "encoding into said at least one symbol a command which when run by a reader . . . causes said reader to execute one of a plurality of file opening programs." The Examiner referred to Barile Fig. 1.

Applicant's representative noted that Barile teaches a PDF417 symbol "include[ing] an update codeword as well as the updated software file. The Update codeword functions as a flag to instruct the target device that the data encoded in the symbol is a software file to be written into the memory." (Col. 8 lines 35-38). Applicant's representative further stated that Barile does not teach a command that when run by a reader causes the reader to execute one of a plurality of the file opening programs.

Regarding Claim 86, Applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of "a designator for a configuration file including user preference configuration data can be designated in said information entry area." The Examiner agreed to withdraw the outstanding 102(b) rejection over Antognini. The Examiner further stated that the claim would be rejected under 103(a) over a reference of record but not cited in the Office Action, U.S. Patent No. 5,488,223.

The Examiner stated that a further search would be conducted and further proposed to conduct a follow up interview on October 16, 2007, stating that should the parties agree with respect to the outstanding claim rejections during the follow up interview, the Examiner would enter an amendment initiated by the Examiner.

The follow up phone conference held on October 25, 2007 was limited to independent Claims 77 and 86. With respect to independent Claim 77, the Examiner stated that the claim could be rejected over the reference which was cited for the first time in the interview on October 16, 2007, U.S. Patent No. 5,488,223 to Austin et al. ('Austin'). Applicant's representative stated that Austin, even in combination with all the other references of the record, at least failed to teach the element of "an encoder encoding into at least one symbol a file in accordance with designating information input into said first data input area, and further encoding into said at least one symbol a command which when run by a reader that reads said at least one symbol causes said reader to execute one of a plurality of file opening programs." The Examiner agreed to remove the §103 rejection of Claim 77.

With respect to independent Claim 86, Applicant's representative stated that while Applicant disagreed with the rejection, merely to advance prosecution and place the application in condition for allowance, the Applicant would agree to cancel independent Claim 86 without prejudice or disclaimer.

With respect to independent Claims 13, 47 and 52, the Examiner requested that the Applicant's representative submit claim amendments as discussed during the interview on October 16, 2007. The Examiner further stated that the amendment would be entered by the Examiner, thus placing independent Claims 13, 47, 52, and 77, as well as their respective dependent claims into condition for allowance.

In the phone conference on October 26, 2007 the Applicant's representative and the Examiner agreed that the Examiner is authorized to enter the agreed upon claim amendments as an Amendment Initiated by Examiner. The Applicant's representative and the Examiner further agreed that the agreed upon amendments are clarifying amendments, and not narrowing amendments. The Applicant's representative and the Examiner further agreed that the three phone conferences on October 16, 2007, October 25, 2007 and October 26, 2007 should be deemed as a single interview.


Accordingly, in view of the above amendments and remarks, Applicant believes the present application to be in condition for allowance.

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's representative at the phone number listed below.

Dated: November 7, 2007

DA/slp

Respectfully submitted,

By 

Dmitry Andreev

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